



**CITY OF COLONIAL HEIGHTS, VIRGINIA
MEETING OF THE PLANNING COMMISSION**

City Hall – 201 James Avenue

Wednesday, November 6, 2019

7:00 p.m.

MINUTES

I. Call to Order

Mr. Hartson called the meeting to order at 6:58pm.

II. Roll Call

Present:

Mr. Hartson

Mr. Cherry

Mrs. Hamilton

Mr. Kohan

Mrs. Schiff

Mr. Wade

Absent:

Mr. Kollman

III. Determination of Quorum

A quorum was determined.

IV. Approval of Agenda

Mr. Wade made a motion to approve the agenda and Mrs. Schiff seconded the motion, with all commissioners in favor.

V. Approval of Minutes for October 1, 2019 meeting

Mrs. Schiff made a motion to approve the minutes and Mr. Kohan seconded the motion, with all commissioners in favor.

VI. Hearing of Citizens Generally

No citizens spoke.

VII. Public Hearing

A. Planning Commission Resolution 19-5

Recommending the approval of Ordinance No. 19-26, to change the land use classification of a tract of approximately 0.1358 acre of real property on the Land Use Plan map, which is part of the City Comprehensive Plan (i.e., Master Plan), from Transitional Office to Community Commercial. The approximate 0.1358 acre tract is known as Chesterfield Highlands, Block 5, Lots 19, 19A, 20, and 20A, parcel identification numbers 40000105020 and 4000010520A; with a physical address of 137 Pickwick Avenue.

Planning Commission Resolution 19-6

Recommending the approval of Ordinance No. 19-27, to change the zoning classification of an approximate 0.0819 acre parcel with parcel identification number 40000105020, and of an approximate 0.0539 acre parcel with parcel identification number 4000010520A, collectively known as 137 Pickwick Avenue, from RO Residential Office District to BB Boulevard Business District; and to amend the Zoning Map accordingly.

Mrs. Hamilton made a declaration of personal interest regarding resolutions 19-5 and 19-6 because she and her husband own 114 Pickwick Avenue and are members of the commercial area that is affected by this matter. However, she stated that she was able to participate in the transactions fairly, objectively, and in the public interest.

Ms. Hall explained that there were two separate resolutions to be voted upon. First, the Commissioners will consider and vote on the change in land use from Transitional Office to Community Commercial on the Comprehensive Plan, and second, the rezoning from RO - Residential Office Zoning District to BB - Boulevard Business Zoning District.

Ms. Hall then presented a background summary of the of applicant's plan. The location of the property is in the Pickwick Shopping Center on the corner of Pickwick and Danville Avenues. The applicant for this rezoning request is Pickwick Development LLC., represented by Mr. Joseph "Joey" Cummings and Mr. Mark Cummings. Mr. Mark Cummings owns the subject property and is the owner of the Pickwick Laundromat. The property owner's son, Mr. Joey Cummings, is the representative on this application. Mr. Joey Cummings is the owner of Southern Spun, LLC, a southern-style food truck that currently serves at the Colonial Heights Farmers Market. Mr. Cummings has proposed turning his food truck business into a brick-and-mortar restaurant at the subject property, and using the attached vacant lot as parking for the business. Pickwick Development LLC gained ownership of the property on May 23, 2019, and since then there have been no changes in the immediate area. The structure at 137 Pickwick Avenue is about 2,062 sq. ft. It is a masonry, single-story structure. It was used by a religious institution, Faith Heritage Church, from 1993-2019 with brief periods of vacancy. There are no records at the City indicating the use prior to this religious institution. It was noted that 138 and 140 Pickwick Avenue, directly across the street from the subject property, were previously rezoned from RO - Residential Office District to BB - Boulevard Business District in 2016. They are similarly situated to the subject property. Due to the proximity of the rear to the adjacent residential property, the applicant has proposed that any equipment (i.e. trash disposal, grease disposal, and HVAC equipment) would be located on the side of the building with a screen. The proposed rezoning in staff's opinion does not add any more or less of an encroachment than the rezoning at 138 and 140 Pickwick Avenue. Ms. Hall proceeded to show visuals of the land use map and zoning map highlighting the parcel in question. She reminded Planning Commission that once the site is rezoned, it may be used for any of the allowed uses in that zoning, regardless of the applicant's proposal. She showed Planning Commissioners the drawings submitted by the applicant, demonstrating where he would place the parking lot, and where the fenced trash and grease disposal area would be located besides the building. Ms. Hall also provided the list of uses in the current zoning of RO - Residential Office District, and the uses of the proposed rezoning to BB - Boulevard Business District. Staff recommended approval of Planning Commission Resolutions 19-5 and 19-6.

Ms. Hall read a letter of support from Mr. Paul Bulifant. He owns the property at 201 Danville Avenue and resides at 1105 Duke of Gloucester Street. He stated in the letter that although he was unable to attend the meeting, he was in favor of these two resolutions, as these changes would expand the types of business that could be used by this property. He continued that he was in favor of anything that would help revitalize this area of the City, as it needs it.

Mr. Joey Cummings came to the podium. He stated that he and his family has always

loved the Pickwick area, and that his family has owned businesses there for 40 years. His hope is to revitalize the area and bring some attention to it with his restaurant.

Mrs. Hamilton asked Mr. Cummings if he was planning to have a dumpster in the proposed enclosed area for waste. He responded that because of space, they would have multiple trash cans, and not a dumpster. She stated that she was concerned about food waste without proper cover leading to rodents and other pests getting into the garbage cans. Mr. Cummings replied that they would have regular inspections from the Health Department and pest control to maintain cleanliness. Mrs. Hamilton asked where the trash cans would be placed for pick up, and whether he would use the city service or a private company. Mr. Cummings stated that his assumption would be Pickwick Avenue, in front of the building, and that the grease disposal would be a private service. She asked about exhaust coming from the building. Mr. Cummings stated that he would prefer exhaust to come out of the side of the building if possible, rather than having to disturb the roof. Mrs. Hamilton asked if that would cause an odor in the neighborhood. Mr. Cummings stated that there would be a smell, but only while they are cooking and preparing food. Mrs. Hamilton also expressed concerns about where the entry and exit to the parking lot is, as there is a lot of congestion there and it is a narrow street. Mr. Flippen reassured her that the City's Engineering Department would determine the best option while reviewing the site plan.

Mr. Wade asked Mr. Cummings if trash would be enclosed, and his proposed hours of operation. He replied yes, that the trash would be in a fenced in area as pictured in the proposal image, and that the restaurant hours would be Tuesday-Saturday, 7am-3pm. Mr. Wade also asked if his ventilation system would be any different than that of other restaurants in the city. Mr. Cummings assured him it would be the same as any other restaurant.

Mr. Hartson asked if Colonial Heights has a sanitation inspection program. Other Planning Commissioners clarified that the health department takes care of sanitary issues.

Thomas Goudreault, property owner of 215 Danville Avenue, came to the podium. He lives next door to 137 Pickwick Avenue. He expressed concerns about traffic, stating that people rarely stop at the stop sign at the end of Pickwick Avenue, and there are typically people parked on either side of the street so it is extremely narrow. He also stated that there was a rodent problem in the past. He was of the opinion that the building would need a lot of work, and that there was a history of flooding on the street and in the proposed parking lot. He stated that he was not against the restaurant, but that the site will need a lot of work in order for it to be safe.

Mrs. Schiff and Mrs. Hamilton agreed that there is a flooding issue on Pickwick Ave.

Mr. Fisher clarified that as there are two separate Resolutions, the Planning Commission should ask which resolution the public is addressing.

Mrs. Hamilton was absent from the October meeting and asked whether it was possible to vote for a special use permit rather than the rezoning. Staff clarified that the decision was made at the October meeting to proceed with a Rezoning.

Mr. Cherry made a motion to approve Resolution 19-5, and Mr. Wade seconded the motion.

Vote: 6-0

Yes:

Mr. Cherry
Mr. Kohan
Mrs. Hamilton

Mrs. Schiff
Mr. Hartson
Mr. Wade

No: None

Abstained: None

Absent:

Mr. Kollman

Motion: Approved

Larry Dennis of 219 Danville Avenue came to the podium. He lives next door to Mr. Goudreault, the property owner that spoke before him. He stated that he did not want a dumpster that close to his house as it will cause a strong odor, and they have already had a raccoon problem in the neighborhood. Mr. Dennis also stated that he did not want exhaust blowing into his backyard. He stated that he would love to see the revitalization of Pickwick Ave, but that he did not agree with a restaurant being so close to his house.

Mrs. Hamilton stated that the rezoning that occurred in 2016 is not comparable to the proposed rezoning at 137 Pickwick Avenue. She continued that the previous rezoning at 138 and 140 Pickwick Avenue was not as close to a RL - Residential Low Zoning District as 137 Pickwick Avenue is, and that the RO - Residential Office Zoning District is a buffer in order to protect neighborhoods. She was also concerned about what could potentially come in when the restaurant is no longer there. She agreed that she wants to see revitalization, but that revitalizing the neighborhood is equally important. She was also concerned about the hours if another restaurant were to come in or if the laundromat were to come in.

Mr. Cherry made a motion to approve Resolution 19-6, and Mr. Wade seconded the motion.

Vote: 5-1

Yes:

Mr. Cherry
Mr. Kohan
Mrs. Schiff
Mr. Hartson
Mr. Wade

No:

Mrs. Hamilton

Abstained: None

Absent:

Mr. Kollman

Motion: Approved

B. Planning Commission Resolution 19-7

Recommending the approval of Ordinance 19-23, to amend § 286-500.04 of City Code Chapter 286, "Zoning", to allow the keeping of up to three female chickens as an accessory use on residentially-zoned property, subject to complying with various provisions in City Code Chapter 98, "Animals". The ordinance specifies that: (i) all chickens shall be kept at all times within an enclosed area in a backyard; (ii) any structure, pen, or coop for the keeping of chickens shall be a minimum area of 10 square feet per chicken; (iii) roosters, ducks, and geese shall not be kept anywhere in the City; and (iv) an Animal Control Officer may inspect the area in which chickens are kept to ensure compliance with the law.

Ms. Hall provided Planning Commission with a brief presentation regarding the keeping of chickens that was presented to City Council in worksession, and expressed staff and council's recommendations. This presentation demonstrated the rise of the keeping of backyard chickens in the last decade, pros and cons, and an overview of other ordinances throughout the state of Virginia.

Bonnie Davis of 3242 Jersey Ct came to the podium. She stated that she was astounded that staff was recommending the approval of this ordinance. She continued that the property values in Colonial Heights are already declining, and that her belief was that no one will want to move into a home if the neighbors have chickens. She stated that pests and smell are a deterrent. She was also concerned that chicken owners will not maintain their property appropriately.

Mr. Hartson asked Mr. Fisher about this ordinance, as he believed that chickens were previously allowed.

Mr. Fisher explained the ordinances and the incongruencies between City Code Chapters 98 (Animals) and 286 (Zoning). While Chapter 98 states that up to three chickens are allowed in Colonial Heights, it also states that it does not override Zoning Ordinance restrictions. Chapter 286 does not allow chickens in any zoning district in the City.

Mr. Fisher also clarified that the Planning Commission has authority regarding Chapter 286, but no authority in regards to Chapter 98.

Ms. Hall stated that Code Enforcement had been enforcing this section of the Zoning Code for a few years now whenever there was a complaint about chickens. However, until recently, animal control was unaware of the zoning restrictions and had only been enforcing upon those residences exceeding three chickens.

Mr. Kohan asked what the maximum square feet per chicken was, as he was concerned someone could make their whole backyard a coop. Ms. Hall explained that the coop would be treated as an accessory structure which means it must comply with the zoning setbacks and maximum coverage of the rear yard.

Mr. Cherry spoke about why City Council came to the decision they did regarding this ordinance.

Mr. Kohan asked if an HOA could override the ordinance, and Mr. Cherry responded yes.

Mr. Cherry made a motion to approve Resolution 19-7 and Mrs. Schiff seconded the motion.

Vote: 1-5

Yes:

Mr. Cherry

No:

Mr. Kohan
Mrs. Hamilton
Mrs. Schiff
Mr. Hartson
Mr. Wade

Abstained: None

Absent:

Mr. Kollman

Motion: Failed

Mrs. Schiff made a new motion to disapprove Resolution 19-7, and Mr. Wade seconded the motion.

Vote: 5-1

Yes:

Mr. Kohan
Mrs. Schiff
Mr. Hartson
Mr. Wade
Mrs. Hamilton

No:

Mr. Cherry

Abstained: None

Absent:

Mr. Kollman

Motion: Approved

C. Planning Commission Resolution 19-8

Recommending the approval of Ordinance 19-28, amending § 286-200 of Chapter 286, Zoning, of the Colonial Heights City Code by adding a definition of "donation collection bin" and adding a § 286-530.26 to Chapter 286, prohibiting the placement or location of donation collection bins anywhere in the City.

Ms. Hall presented about donation bins in the City. She stated that City Council had noticed how they had become magnets for illegal dumping in visible locations, which brought this issue to their attention. She explained the different manners in which donation bins may be regulated, including specific regulation, code enforcement regulating them under the trash and debris ordinance, or considering them accessory structures. Staff recommended regulating the bins as an accessory structure and City Council recommended prohibiting them.

Mr. Wade asked how many bins are in the City. Ms. Payne stated that there are 26, with the majority being on the Boulevard and in the Southpark Mall area.

Mr. Cherry spoke about his own experience with donation bins being placed in front of his business without his permission.

Mrs. Schiff made a motion to approve Resolution 19-8, and Mr. Cherry seconded the motion.

Vote: 6-0

Yes:

Mr. Cherry
Mr. Kohan
Mrs. Hamilton
Mrs. Schiff
Mr. Hartson
Mr. Wade

No: None

Abstained: None

Absent:

Mr. Kollman

Motion: Approved

VIII. Site Plans / Plans of Development

A. PD 19-4 Boot Barn Retail Store

The property owner, Colonial Heights of Alabama, LLC, proposes development of an 8,560 square foot retail store on parcel identification number 68036000004, located in the Home Depot Shopping Center at 2600 Conduit Road. Parcel is located south of Home Depot and is accessed through the shopping center.

Ms. Hall presented the preliminary site plan and comments for PD 19-4. She explained that the Chesapeake Bay and the floodplain would need to be delineated and shown. She also stated that she would be working with developers to meet code requirements in regards to shade trees. Staff recommended approval of this site plan.

Ms. Hall then spoke to Planning Commission about a recent trend in the redevelopment of shopping centers, which may require an amendment to the zoning code. She stated that it is common for separate parcels to exist within shopping centers so that businesses may obtain ownership, much like a commercial condominium. In this scenario, they appear to be a part of the shopping center, sharing the ingress and egress, signage, and paying shared maintenance fees for the parking lot. When a building is standalone, rather than within a shopping center, the building must meet all zoning requirements, such as 80 feet of frontage and perimeter landscaping. When a development is a part of the shopping center, there are reduced requirements since the shopping center achieves the requirements as a whole. However, when a shopping center is redeveloped, the parking lot must be upgraded. The main issue that has become a trend in the City is that developers will proceed with the benefits of the shopping center, and then when faced with the requirements of upgrading the shopping center, the developer will pull back and want the benefits of a standalone parcel without meeting the zoning criteria to be a standalone parcel such as a required frontage and perimeter landscaping. This is something that every locality faces, and Ms. Hall contacted other localities to learn how they dealt with the matter. Due to significant differences between other localities' zoning codes, this is something she is continuing to research to determine best practices for regulating the redevelopment of shopping centers.

Mrs. Hamilton asked if the required shade trees could be of a native species. Ms. Hall stated that the code stipulates preferences for trees, but most of the trees on the list are not native.

Mr. Hartson asked what was meant by "Home Depot Shopping Center" on the site plan, whether the land was owned by The Home Depot, and if the proposed Boot Barn would be built attached to The Home Depot. Ms. Hall explained that the land is not owned by The Home Depot, and was labeled as such in error on the plans. She also stated that the parcel was originally meeting standalone zoning requirements such as frontage, but the developer was granted a boundary line adjustment for the development to function as a part of the shopping center the building is detached by 26.5 feet. Ms. Hall further explained that when the developer came in for a boundary line adjustment, his argument was that this development belongs to the shopping center, so they use the same parking lot, ingress/egress, and signage on the shopping center sign. Shopping center development of development has a whole different set of regulations from a standalone parcel.

Mr. Cherry asked whether Texas Roadhouse is a part of the shopping center, and Ms. Hall replied that they are their own standalone parcel and meet the requirements of such, they just have an ingress/egress agreement with The Home Depot.

Mr. Cherry made a motion to approve Plans of Development 19-4, and Mr. Wade seconded the motion.

Vote: 6-0

Yes:

Mr. Cherry
Mr. Kohan
Mrs. Hamilton
Mrs. Schiff
Mr. Hartson
Mr. Wade

No: None

Abstained: None

Absent:

Mr. Kollman

Motion: Unanimous Approval

IX. Old Business

1. Review of the Comprehensive Plan will continue at next month's Planning Commission meeting.

X. New Business/Reports

Reports

1. Chairman

Mr. Hartson spoke about the Retail Academy presentation he attended with Mr. Wade, Mayor Kochuba, and Mr. Smith, which Mrs. Epps had organized. He stated that it was an excellent presentation that got him considering how to rebrand the City of Colonial Heights in a new way and attract the types of businesses needed.

2. Director of Planning and Community Development – Ms. Hall

Ms. Hall reminded Planning Commission that the December meeting will be on a Wednesday once again because of the Christmas Parade being held Tuesday evening. She stated that the only agenda item for December at that time was to review the remainder of the Comprehensive Plan. Ms. Minor will review this section and present her recommended edits as it concerns her department.

3. **City Engineer or Designee – Asst. Director of Public Works – Mr. Flippen** had nothing to report.

4. Others, as necessary or appropriate

a. City Manager – Mr. Smith

Mr. Smith agreed with Mr. Hartson regarding the Retail Academy. He stated that the presentation was very well prepared, and they had done thorough research. He also stated he would bring this information to City Council to speak about during their retreat. Mr. Smith updated the Planning Commission on the Violet Bank grant from the Cameron Foundation. The City applied for about \$98,000, and has received \$43,700 in funding. Mr. Smith stated that City Council would discuss reallocating funds to make up the difference, and that combined with other existing funding, they will have approximately \$270,000 toward renovations on Violet Bank. He estimated that the project would go to bid in early 2020.

Mr. Hartson asked if the City has received funding from the Cameron foundation before. Mr. Smith replied yes, that they had provided funding for the initial study done on Violet Bank.

Mr. Kohan asked for updates on the Coastal Plains League baseball team. Mr. Smith responded that the Coach has been named, and that Staff is in the process of doing improvements to the baseball field including raising netting and screening. In regards to parking, he has spoken with Mr. Skalak about options in the immediate area, as well as coordinating with local businesses along the Boulevard if necessary.

b. City Attorney – Mr. Fisher

Mr. Fisher made the Planning Commission aware of an upcoming public hearing on a complicated ordinance that regulates personal assistive mobility devices (e.g. Segways,

electronic wheelchairs), electric power-assisted bicycles, motorized skateboards, and motorized scooters that City Council was to hold at their November 12 meeting. The State Legislature has indicated that if a locality wishes to regulate companies that offer these vehicles for hire, it has to pass an ordinance regulating them by December 31st, or it will be foreclosed. The ordinance is scheduled to be presented at the November 12 meeting, with a second reading in December. This ordinance includes stipulations regarding parking, leasing, and speed limits of these vehicles.

XI. Adjournment

Mr. Wade made a motion to adjourn the meeting and Mrs. Schiff seconded the motion with all commissioners in favor.

The meeting was adjourned at 8:50pm.



Kelly Hall
Secretary



Mitchell Hartson
Chairman